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**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

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LEONARD EDELSON,

Plaintiff

vs.

Civil Action Number
1:20-mc-01995-UAD

Response to Objections

STEPHEN CHEUNG,

Defendant

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Plaintiff Leonard Edelson's Objections to Magistrate Judge Sanket J. Bulsara's June 8, 2022 Report and Recommendation holding that plaintiff's the motion for turnover be denied is solely premised on his assertion that Rosana Cheung testimony, defendant's witness at the factual hearing in this matter, is not credible. Plaintiff's argument does nothing to contradict the precept that the credibility determinations made by Judge Bulsara are entitled to deference and as a matter of course should be accepted by the district court.

In conducting its *de novo* review, the district court must give appropriate deference to the credibility determinations made by the magistrate judge who conducted an evidentiary hearing and observed the witness testimony. *See United States v. Raddatz*, 447 U.S. 667, 675-76, 100 S. Ct. 2406, 65 L.Ed.2d 424 (1980) (district court is not required to rehear witness testimony when accepting a magistrate judge's credibility findings); *Cullen v. United States*, 194 F.3d 401, 407 (2d Cir. 1999) (holding that "without an evidentiary hearing, the District Court could not reject the Magistrate Judge's proposed credibility finding"); *United States v. Lawson*, 961 F.Supp.2d 496, 499 (W.D.N.Y. 2013) ("The Second Circuit has instructed that where a Magistrate Judge conducts an evidentiary hearing and makes credibility findings on disputed issues of fact, the district court will ordinarily accept those credibility findings."); *United States v.*

Preston, 635 F.Supp.2d 267, 269 (W.D.N.Y. 2009) (“The district court, however, may not reject the magistrate judge's credibility findings without conducting an evidentiary hearing at which the district court has the opportunity to observe and evaluate witness credibility in the first instance.”).

Judge Bulsara’s Report and Recommendations is thorough, well-reasoned and is fully supported by the documentary evidence and testimony presented at the hearing. It therefore should be confirmed by the district court.

Dated: June 25, 2022
New York, N.Y.

Law Office of Harvey S. Mars LLC

Harvey S. Mars

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